

TRINITY COUNTY SUPERIOR COURT RULES

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GENERAL RULES

CHAPTER ONE

1.1 PURPOSE AND CONSTRUCTION OF LOCAL RULES OF COURT

(Eff. 7/1/06)

(a) Purpose.

These Trinity County Superior Court Rules are adopted to satisfy requirements of California Rules of Court 981 and 981.1 and statutory law.

(b) Construction and Application of these Rules.

These rules shall be construed and applied so as not to conflict with the California Rules of Court. The Court may waive, either sua sponte or on motion, any of these rules when the interests of justice so require.

(c) Assignments by Department

All Matters are Assigned by Department and to the Judge of that Department The Superior Court of California for Trinity County does not use a master calendar. Cases are assigned to each department of the court and to the judge of that department for all purposes through completion unless transferred to the other department by court order or by operation of law.

(d) Complaints Involving Court Personnel

Where the California Rules of Court require a local provision for resolving complaints involving an individual appointed or employed by the court, the court will initially receive and dispose of complaints as provided in local rule 4.4(b).

(Eff. 7/1/06)

1.2 SANCTIONS FOR VIOLATION OF LOCAL RULES *(Eff. 7/1/06)*

(a) Sanctions are Authorized

The Court may, after notice and an opportunity to be heard, impose a sanction for violations of these rules. *(Eff. 7/1/06)*

1.3 TELEPHONIC APPEARANCE [CIVIL CASES ONLY] *(Eff. 7/1/06)*

(a) Prior Approval is Required for Telephonic Appearance

Personal appearances are required at all hearings unless prior permission is granted by the Court for a telephonic appearance. Counsel may apply to the Court Secretary (530-623-1369) for such permission. *(Eff. 7/1/06)*

1.4 COURT REPORTER *(Eff. 7/1/06)*

(a) Appointment.

The Court shall have one official court reporter appointed by the Presiding Judge.

(b) Proceedings to be Reported

All juvenile proceedings, LPS conservatorship proceedings, and proceedings in felony criminal cases (except initial arraignments prior to the preliminary hearing) are to be reported.

(c) Requests for other Proceedings to be Reported

If a party or attorney wishes to have any other matter reported arrangements should be made in advance with the official court reporter (530-623-1219) or with a private certified court reporter with notice to the official court reporter.

(d) Use of Electronic Recordings

The Trinity County Superior Court adopts the procedures and requirements stated in California Rules of Court 187.5 for all matters which are officially recorded electronically. (*Eff. 7/1/06*)

1.5 SUBJECTS COVERED BY STANDING ADMINISTRATIVE ORDERS

(*Eff. 7/1/06*)

(a) Release of Confidential Information

Authorization for release of information concerning minors must conform to the holding in *T.N.G. vs. Superior Court* (1971) 4 Cal.3rd 767 or meet the requirements of Rules of Court 1423.

(b) Voluntary mediation services are not available.

(c) Domestic Violence and Child Custody Orders

California Rule of Court 5.500 (c) requires adoption of a local procedure for communication between courts about the existence and terms of orders which impact protective orders or child custody and visitation orders. The judicial officer issuing such orders shall send copies of each such order to the other judicial officers of this court. Criminal protective orders may be modified to conform to subsequently issued child custody or visitation orders by use of the request to calendar procedure. (*Eff. 7/1/06*)

CHAPTER TWO - CALENDARING

2.1 REQUESTS TO CALENDAR (*Eff. 7/1/06*)

(a) To simplify court access on routine matters in criminal and juvenile cases, which are expected to be uncontested, a Request to Calendar process is authorized.

(b) Forms and procedural rules for that process are developed and updated by the Court Services Supervisor, with the approval of the Presiding Judge. Copies of the current forms and procedural rules are available from Court Services. (*Eff. 7/1/06*)

2.2 MEDIATOR'S NOTICE OF HEARING (*Eff. 7/1/06*)

(a) In order to improve access to the court process on issues of child custody and visitation the family court mediator is authorized to use a Mediator's Notice of Hearing.

(b) Forms and procedural rules for that process are developed and updated by the mediator, with the approval of the Presiding Judge. Copies of the current forms and procedural rules are available from Court Services. (*Eff. 7/1/06*)

2.3 ANNUAL CALENDAR (*Eff. 7/1/06*)

(a) Each year the Judges, the Court Executive Officer, and the Court Services Supervisor shall establish a calendar for the following calendar year. The annual calendar shall identify the assigned judicial officer and the types of cases for each department of the court. Calendaring assignments between the two departments will maximize utilization of the two judges in a manner consistent with the expertise and interests of the judges, efficient cost-effective use of court resources, including personnel, and implement reduction in court delay.

(b) A printed composite calendar for the two departments shall be set and distributed to local law enforcement agencies and local attorneys on or about November 1, of each year.

(c) The Superior Court of California for Trinity County does not use a master calendar. Cases are assigned to each department of the court and to the judge of that department for all purposes through completion unless transferred to the other department by court order or operation of law. (*Eff. 7/1/06*)

CHAPTER THREE - CIVIL CASE MANAGEMENT

3.1 POLICY STATEMENT (*Eff. 7/1/06*)

(a) The Government Code and the California Rules of Court mandate that trial courts actively manage the pace of civil litigation. This court carries out that mandate by setting the following case development benchmarks and case management procedures, however, the court will not intervene with early status conferences or orders to show cause before the required comprehensive Case Management Conference.

(b) At the Case Management Conference the parties should be prepared to declare the case at issue, to identify all issues to be tried, to state any stipulated issues, to inform the court about case management issues, to summarize the status of discovery, to address Alternative Dispute Resolution alternatives, (hereinafter "ADR"), and to schedule ADR or trial. (*Eff. 7/1/06*)

3.2 CASE MANAGEMENT CONFERENCE (*Eff. 7/1/06*)

(a) At the time of the filing of a "general civil case" as defined in California Rule of Court 207(b), the clerk shall set the matter for a comprehensive Case Management Conference between 150 and 180 days from filing.

(b) The clerk shall issue a Notice of Case Management Procedure (hereinafter "Notice") with the summons and shall furnish the plaintiff an "ADR" information package pursuant to California Rules of Court 201.9. A copy of the Notice is available from Court Services.

(c) The plaintiff shall serve a copy of the Notice and the ADR information package with the summons and complaint.

(d) All cross-complainants shall serve a copy of the Notice and ADR information package on each cross-defendant at the time the cross-complaint is served. (*Eff. 7/1/06*)

3.3 EXEMPTION FROM TRIAL DELAY REDUCTION (*Eff. 7/1/06*)

(a) A request to exempt a case from these case management procedures shall be by properly noticed written motion, supported by declaration(s) which demonstrate good cause. A stipulation for an exemption does not establish good cause. (*Eff. 7/1/06*)

3.4 PERIODS OF CASE PROGRESSION (*Eff. 7/1/06*)

The following time periods are set for progression of all civil cases:

(a) Service of the complaint within 60 days of filing.

(b) Service of responsive pleading within 30 days after service of the complaint.

(c) Case Management Conference within 180 days of filing of complaint.

(d) All discovery, other than depositions of expert witnesses, to be completed within 240 days of filing of complaint.

(e) Stipulated extensions of time only as provided by law. (Government Code 68616). (*Eff. 7/1/06*)

3.5 CASE MANAGEMENT STATEMENT (*Eff. 7/1/06*)

(a) All parties must submit a completed Case Management Statement (Judicial Council form CM-110), at least fifteen (15) days before the Case Management Conference. Parties are encouraged to meet and confer to resolve issues and to attempt to file joint statements. (*Eff. 7/1/06*)

3.6 PARTICIPATION IN CONFERENCE

(a) Counsel for each party, and each party not represented by counsel, shall attend the Case Management Conference.

3.7 CASE MANAGEMENT/PRETRIAL ORDER (*Eff. 7/1/06*)

(a) Following the Case Management Conference the Court will issue a Case Management/Pretrial Conference Order concerning the status of the case and all of the following:

(1) identity and representation of parties; (2) nature of action; (3) uncontested issues; (4) contested issues; (5) bifurcation/consolidation; discovery issues (cut off dates, etc.); (6) ADR; (7) case plan designation; (8) Mandatory Settlement Conference date; (9) trial date; (10) length of trial (11) any other further required proceedings.

(b) Case management plan time limits for dispositions, from date of filing of complaint, are:

Plan 1.....12 months;

Plan 2.....18 months;

Plan 3.....24 months;

(c) All cases are presumed to be Plan 1 cases.

(d) Case Management Statements may state cause for a different case management plan designation.

(e) Further case management conferences may be set as needed on a case-by-case basis. (*Eff. 7/1/06*)

3.8 SETTLEMENT CONFERENCES (*Eff. 7/1/06*)

(a) In addition to case management conferences the Court will schedule a Mandatory Settlement Conference for all cases.

(b) All parties and insurance representatives with authority to settle shall attend Mandatory Settlement Conferences. (*Eff. 7/1/06*)

CHAPTER FOUR - JUVENILE COURT RULES

4.1 ATTORNEYS FOR PARTIES (*Eff. 7/1/06*)

(a) All attorneys appearing in juvenile dependency proceedings shall meet the standards of competence required by California Rule of Court 1438 and any further standards that are imposed by these rules. [Rule 1438 (d)(2) and (d)(3)] (*Eff. 7/1/06*)

4.2 CERTIFICATION OF COMPETENCY *(Eff. 7/1/06)*

(a) Each attorney appearing in dependency proceedings shall, within 30 days of the effective date of these rules, submit to the Court Executive Officer, a Certification of Competency.

(b) Any attorney of record in a dependency proceeding who does not meet the minimum standards of training and experience shall have until October 31, 2006, to fulfill said requirements. *(Eff. 7/1/06)*

4.3 COMPLAINTS AGAINST ATTORNEYS *(Eff. 7/1/06)*

(a) All attorneys appointed to represent parties in dependency proceedings shall advise their clients, ages 12 years or older, that the client has the right to state in open court any complaints or questions the party has concerning the performance of the attorney. All attorneys shall also inform such clients that the clients have the right to submit to the court written complaints or questions regarding the performance of the attorney.

(b) All written complaints received shall be stamped "received", lodged in the file, and copied to the attorney. The juvenile court judge shall review the complaint and any response of the attorney and take appropriate action. Such action may include an in camera hearing on the subjects raised in the complaint. *(Eff. 7/1/06)*

CHAPTER FIVE - FAMILY LAW

5.0 APPLICATION OF RULES *(Eff. 7/1/06)*

These Rules apply to all matters related to the Family Law Act, the Uniform Parentage Act, the Domestic Violence Prevention Act, and the Uniform Child Custody Jurisdiction Act. *(Eff. 7/1/06)*

5.1 MEDIATION *(Eff. 7/1/06)*

Role of Mediator.

(a) The mediator(s) of child custody and visitation disputes are authorized to render oral and written recommendations to the court on custody and visitation.

(b) The court may, without foundation, consider oral and written reports and recommendations from the mediator.

(c) In a contested hearing the mediator may be called as a witness by any party on reasonable notice, without the need of a subpoena. The mediator may not be required to participate in a deposition or any other discovery procedure.

(d) The mediator may conduct child custody investigations/evaluations pursuant to Family Code Section 3110, *et.seq.* *(Eff. 7/1/06)*

5.2 Requests to Change Mediator. *(Eff. 7/1/06)*

(a) The court employed mediator may disqualify herself/himself from a case for good cause.

(b) A party does not have a right to disqualify a mediator.

(c) A party may request a different mediator by written request to the Court stating the reason(s) for the request. Copies of any such request must be delivered immediately to the mediator and all other parties. The judge presiding over the family law calendar shall consider and decide all such requests.

Disagreement with the mediator's recommendations is not a basis for disqualification of the mediator and those requests shall not be granted.
(*Eff. 7/1/06*)

5.3 Who May Attend Mediation. (*Eff. 7/1/06*)

- (a) In general only the parents and the child or children participate with the mediator in the mediation process. However, the mediator has complete discretion to include or exclude an individual from any mediation meeting.
- (b) Interviews of children without any parent or advocate being present are specifically authorized. (*Eff. 7/1/06*)

5.4 Communications with the Mediator. (*Eff. 7/1/06*)

- (a) The mediator shall establish the method of communication, the frequency and conditions for communication between the mediator and other participants, including the attorneys, the children, the parents and other interested individuals.
- (b) The mediator may permit communication with one party without the other party being present or represented.
- (c) The mediator will not initiate communications with the judge regarding any case except regarding procedural matters. However, the mediator may request the parties to enter a stipulation for the mediator to discuss substantive issues of a case with the judge.
- (d) With prior notice to the parties the mediator may submit confidential written reports to the judge concerning interviews of children when, in the opinion of the mediator, such confidentiality is in the best interest of the child or children.
(*Eff. 7/1/06*)

5.7 FAMILY LAW ORDERS INVOLVING SUPPORT (*Eff. 7/1/06*)

All orders which include a provision for support must be accompanied by a Child Support Case Registry Form (FL-191). The court will not sign and file a stipulated order, order after hearing or judgment which includes any provision regarding child support unless a completed Child Support Case Registry Form (FL-191) is provided. (*Eff. 7/1/06*)

CHAPTER SIX - RESERVED

CHAPTER SEVEN - CRIMINAL CASE RULES

RULE 7.0 ASSIGNMENTS OF CASES (*Eff. 7/1/06*)

Criminal cases are assigned for all purposes by court department. All cases being prosecuted by complaint are initially assigned to the Department handling preliminary hearings and to the judge of that Department. All cases being prosecuted by indictment or information are initially assigned to the Department which handles felony trials. Individual cases may be calendared in or reassigned to the other department for judicial economy, legal necessity, court convenience or upon application by counsel for good cause shown. (*Eff. 7/1/06*)

RULE 7.1 TRIAL SETTING (*Eff. 7/1/06*)

All criminal trials will be set within statutory time limits, unless good cause is shown for a later trial date. (*Eff. 7/1/06*)

RULE 7.2 TRIAL CONFIRMATION HEARING (*Eff. 7/1/06*)

All criminal matters set for jury trial will be set for trial confirmation hearing prior to trial. The timing of the trial confirmation hearing is determined by the court. All other criminal trials, or probation revocation hearings, will be set for pretrial at least one day prior to date of hearing or trial.

Confirmation of jury trial constitutes a representation by counsel that they are ready to proceed to trial. No continuance of the trial will be granted without compliance with the requirements of Penal Code §1050.

RULE 7.3 PRETRIAL MOTIONS (*Eff. 7/1/06*)

All pretrial motions, including in limine motions, shall be set for hearing on or before the date set for trial confirmation. (*Eff. 7/1/06*)

RULE 7.4 PRETRIAL CONFERENCE (*Eff. 7/1/06*)

A pretrial conference shall be set prior to trial. Prior to the date set for pretrial, the District Attorney and defense counsel shall confer and discuss the issues to be addressed at pretrial. Any offers which the District Attorney proposes to make at pretrial shall be disclosed to defense counsel prior to said conference. Defense counsel shall forthwith communicate any such offers to the defendant, and shall respond to the District Attorney's offer prior to the date scheduled for pretrial. (*Eff. 7/1/06*)

RULE 7.5 CRIMINAL DISCOVERY (*Eff. 7/1/06*)

Criminal discovery shall be conducted pursuant to the provisions of the California Penal Code, and California case law. (*Eff. 7/1/06*)

RULE 7.7 CRIMINAL PROTECTIVE ORDERS AND RESTITUTION (*Eff. 7/1/06*)

In every case in which it is appropriate, criminal protective orders and restitution orders shall be imposed. (*Eff. 7/1/06*)

RULE 7.8 CRIMINAL PROTECTIVE ORDERS (*Eff. 7/1/06*)

(a) During prosecution of a criminal matter charging domestic violence, the court may issue a protective order.

(b) As a condition of probation for a domestic violence related crime, the court shall issue a restraining order which limits the defendant's conduct toward the victim and other immediate family members, when appropriate.

(c) The procedures for Criminal Protective Orders (hereafter CPO) during prosecution of the case shall be as set forth in the Trinity County District Attorney's Office memorandum "Criminal Protective Orders in Domestic Violence Cases".

(d) The procedures for processing CPOs

As a condition of probation in felony sentencing shall be as set forth in the Trinity County Probation Department Administrative Manual, "Criminal Protective Orders". In every case in which it is appropriate, criminal protective orders shall be imposed and the following procedure is to be followed to coordinate Criminal Protective Orders with family court or juvenile court orders. (See Rules of Court 5.500) (*Eff. 7/1/06*)

RULE 7.9 - DOMESTIC VIOLENCE COORDINATION RULES (*Eff. 7/1/06*)

Pursuant to Rule 5.500 of the California Rules of Court, coordination of criminal protective orders with Family Court and Juvenile Court orders shall proceed as follows:

(a) Prior to issuing any protective or restraining order in any criminal, family law or juvenile court case, the court shall inquire of the parties, or any victim present in court and counsel whether a protective order or restraining orders currently exists in any other case, and direct the clerk to search the computer data base for any related cases.

(b) If the information available to the court indicates the possibility of existing protective or restraining orders, the court shall review those orders prior to issuing additional orders, continuing the proceeding if necessary.

Until the court has an operational case management system capable of automatically coordinating domestic violence orders, the court's criminal, family and juvenile law departments shall communicate and exchange information with each other prior to issuing protective orders and child custody and visitation orders to determine if any such orders have already been issued as to the same parties or children in any other department. (*Eff. 7/1/06*)

RULE 7.10 - AVOIDING CONFLICTING ORDERS (*Eff. 7/1/06*)

No department of the family or juvenile court shall issue a protective order or custody order in conflict with an order of the criminal court. In the event of conflicting orders, the orders made in the criminal law proceeding shall control. (*Eff. 7/1/06*)

RULE 7.11 - MODIFICATIONS OF CRIMINAL ORDERS (*Eff. 7/1/06*)

A court issuing a criminal court protective order may, after consultation with the appropriate department of the juvenile or family law court, modify the criminal court protective order to allow or restrict contact between the restrained person and his or her children, spouse, or other protected person. (*Eff. 7/1/06*)

RULE 7.12 - COEXISTING CRIMINAL AND FAMILY LAW OR JUVENILE ORDERS (*Eff. 7/1/06*)

A family or juvenile court order may coexist with a criminal court protective order, subject to the following:

(a) Any order that permits contact between the restrained person and his or her children shall provide for the safe exchange of the children and shall not contain language either printed or handwritten that violates a "no contact order" issued by a criminal court.

(b) Safety of all parties shall be the courts' paramount concern. The family or juvenile court order shall specify the time, day, place, and manner of transfer of the child, as provided in Section 3100 of the Family Code. (*Eff. 7/1/06*)

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